Social Networking and the Workplace

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As social networking continues to play an increasingly larger role in our society, it comes as no great surprise that these networks are beginning to pose a threat to both employers and employees. Although these sites, such as Facebook, Twitter, and MySpace provide an excellent chance for employers and employees to cast out information to a wider audience, this benefit comes with a price. Because social networking sites have so quickly infused themselves in our society, it is unlikely that these benefits and dangers will be leaving us anytime soon. Instead, it is essential that both employers and employees become well-versed in the challenges faced by these programs so that the workplace may embrace these changes while avoiding potential negative consequences.

How Does Social Networking Impact the Employment Arena?

Some of the more prominent themes presented by social networking that should be kept in mind are:

1) Obtaining Information the Employer Does Not Want to Know

Although one of the main benefits of social networking is the ability to market one-self by infusing personal information into the web, information that is sensitive or protected may lead to a responsibility by the employer to handle this information properly. Because of the large number of Federal Acts associated with discrimination, accessing information on a potential employee's sexual orientation, handicaps, and other protected information may lead to an employee claiming discrimination further on down the road. An employer would be wise to re-visit its policy regarding obtaining information about an employee or prospective employee to address whether it has the appropriate safeguards in place to avoid liability.

2) Privacy Issues

Searching social networks can invariably lead to an employer discovering information that may be considered private. Because most employees think that what they do at home on the computer is their private business, it is possible that discovering and/or acting on this information may lead to a claim of invasion of privacy. Although there is discussion regarding whether information posted on a publicly available site comes with an expectation of privacy, the fact is that acting on this information may lead to a potential claim, regardless of whether the employer did anything wrong.

3) Employers Monitoring Employees Use at Work

There are many issues that arise from employees using social networking sites during work time. Issues include, but are not limited to, employer liability for employee's

conduct on these sites, policies related to proprietary issues, and reading and acting on negative comments about their work. These issues pose new questions to employers and employees about computer use in the workplace.

What Can Employers and Employees Do to Minimize Risk?

Although it is quite clear that the emerging popularity and impact of social networking sites lead to some potentially difficult legal problems for those on both sides of the workplace relationship, there are a number of things that employers and employees can do to maximize the benefit of these new tools, while minimizing risk.

1) Employer Use Policies

One of the most effective ways of avoiding legal entanglement is for employers to develop and distribute employer use policies that clearly state the rules and expectations of employees at work. Whether these policies are printed in employee handbooks or employment agreements, these policies should state clearly that employees have no expectation of privacy in anything they create, store, send, or receive using company computers.

2) Employees Should Use Careful Discretion Before Posting

Because employees may face negative consequences by posting remarks about supervisors, co-workers, or sensitive business information, it is wise for employees to be extremely discerning in what they post. This means obtaining permission from employers or clients before posting content about them, and obtaining permission before posting any copyright material.

3) Assume Anything Posted Will Eventually Reach That Person the Claim is About

In today's highly-connected world, it is a mistake for employees to believe that anything they post on social networking sites will remain obscure. To avoid liability, it is important for employees and employers to assume that their posted content both will be discovered and have consequences, even when using a site that is presumably safe via privacy setting and password protection.

Conclusion

Because of the tremendous power associated with social networking sites, it is a mistake for both employers and employees to assume that this dramatic shift in the way people communicate will not affect their workplace. Instead, employees and employers should embrace these tools as a way to expand their businesses, while understanding the underlying dangers associated with these sites.